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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Petition of SBC Communications Inc.)
for Forbearance of Structural Separation)
Requirements and Request For Immediate)
Interim Relief in Relation to the Provision of)
Nonlocal Directory Assistance Services)

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

97-172

PETITION OF SBC COMMUNICATIONS INC. FOR
FORBEARANCE FROM SECTION 272 OF THE
FEDERAL TELECOMMUNICATIONS ACT OF 1996

SBC Communications Inc. (SBC), on behalf of its Bell Operating Company (BOC) subsidiaries,¹ petitions the Commission for forbearance from Section 272 of the Telecommunications Act of 1996 (Act) on the provision of nonlocal directory assistance (NDA) services. The petition for forbearance is filed under the authority of Section 10 of the Act and mirrors similar filings by Bell Atlantic, BellSouth, and U S West. To expedite the Commission's consideration of this petition, SBC has served the petition on all parties in Docket No. 97-172.

I. Background

On September 27, 1999, the Commission released its *U S West Order*² granting in part U S West's petition for forbearance to provide NDA services. ¶ 3. The *Order* found that U S West's NDA was an interLATA service, but that U S West could provide regional listings

¹ Ameritech, Pacific Bell (PB), Nevada Bell (NB), and Southwestern Bell Telephone Company (SWBT). Ameritech includes: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc.

² *In the Matter of Petition of U S West Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance; Petition of U S West Communications, Inc. for Forbearance; and The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Memorandum Opinion and Order*, CC Docket Nos. 97-172 and 92-105 (released September 27, 1999) (hereafter *U S West Order* or *Order*).

pursuant to Section 271(g)(4) of the Act. ¶ 18 & 23. The Commission also forebore from requiring U S West to provide its regional NDA through a Section 272 affiliate and permitted the U S West telephone company to provide the service. As to U S West's national directory listing service, the Commission ruled that U S West's service, as then configured, did not comply with the Act because U S West did not own the information storage facilities containing the national listings. ¶ 2, 3, & 28, n. 67.

II. SBC NDA Services

SBC provides NDA services in 12 of its 13 states. The services are provided by SNET Diversified Group, Inc. (SNET-DG), Ameritech, SWBT, and PB.

A. SNET-DG

SNET-DG is not a BOC. SNET-DG originates its NDA services out-of-region and provides NDA as an interexchange carrier. Thus, SNET-DG is exempt from the *Order's* requirements pursuant to Sections 271(b)(2) and 272(a)(2)(B)(ii),³ and is not part of this forbearance petition.

B. Ameritech

Ameritech offers NDA through exclusively owned databases which provide local, regional, and national directory assistance listings. Ameritech, unlike U S West, uses its own information storage facilities to provide NDA.⁴ As such, Ameritech is and already was in compliance with the Commission's interpretation of the requirements of Section 271(g)(4) as

³ Section 271(b)(2) allows an affiliate of a BOC to provide interLATA services originating outside of the BOC's in-region states. Section 272(a)(2)(B)(ii) exempts the provision of such out-of-region services from the separate affiliate requirement of that section.

⁴ Ameritech owns and exclusively operates two data storage facilities located in Milwaukee, Wisconsin and Troy, Michigan and uses those facilities to provide NDA, both on a regional and a nationwide basis.

stated in the *U S West Order*, and no further action on its part was or is required in order for it to be granted forbearance from Section 272 for NDA.

C. SWBT, Pacific Bell, and Nevada Bell

SWBT and PB separately offer NDA on a regional basis in the same manner as U S West, *i.e.*, through exclusively owned databases which provide both local and regional DA listings.⁵ Like U S West, SWBT and PB did not, at the time of the release of the *U S West Order*, own information storage facilities for the provision of national directory listing service. Instead, for the national listings, the SWBT and PB databases queried Nortel Networks' national database located in Chicago, Illinois.⁶ In order to satisfy the requirements of Section 271(g)(4), as interpreted by the Commission in the *U S West Order*, SWBT and PB are purchasing from Nortel a national directory listing service information storage facility similar to the type of facility they use today for obtaining national listings. The resulting contract, upon execution, will immediately vest SBC with ownership of the national directory listing service information storage facility consistent with the *U S West Order* obligation that a BOC or its affiliate own such facilities.⁷ In the long term, SWBT and PB operator workstations will be reconfigured to access the national databases owned exclusively and currently being used by Ameritech. The transition to the Ameritech databases should take approximately one year to complete.

⁵ The SWBT owned local and regional databases are located in St. Louis, Missouri; Oklahoma City, Oklahoma; Dallas, Texas; and Houston, Texas. The PB owned local and regional databases are located in Concord, California; and in Buena Park, California. SWBT's and PB's databases house regionwide customer information used for provisioning their local and regional NDA services. SWBT's listings are not used by PB for its regional NDA services and PB's listings are not used by SWBT for its regional NDA services.

⁶ Examples of the process using the 411 and 555-1212 dialing patterns are attached to this petition.

⁷ SWBT and PB will notify the Commission immediately on the date of contract's formal execution.

NB does not currently offer NDA on a regional or on a nationwide basis, but will likely provide such a service in the future. If it does so, NB will use the PB and/or Ameritech databases. For that reason, NB wishes to be included within the scope of this petition for forbearance of Section 272. In making that request, NB seeks to avoid having to file a separate petition in the future. All of the justifications for Section 272 forbearance which follow, *infra Part IV*, also apply to NB.

III. Nondiscriminatory Provision of In-Region Listings

The Commission's *U S West Order* requires U S West, to the extent it uses directory listing information of the customers of independent and competitive local exchange carriers operating in its region, to make such information available to unaffiliated entities and to update and maintain such information for those unaffiliated entities in a nondiscriminatory manner. ¶ 30 & 37.

SBC interprets the *U S West Order* to apply to local exchange and toll carriers only, and not third party DA providers, which the Commission has already determined are not providers under the definition of Section 251(b)(3). Furthermore, the Commission should be aware that PB has been prohibited by order of the California Public Utility Commission (CPUC) from releasing the required information without the authorization of the underlying carrier. SBC has no objection to releasing such information as required by the *U S West Order*, but needs additional direction on this point from the Commission, so it will not violate contrary State commission policies or orders.

IV. Forbearance Under Section 10

The Commission should forbear from applying the Section 272 separate affiliate requirements to SBC in its provision of NDA. The standards governing the Commission's

consideration of this petition are set forth in Section 10(a) of the Act. Section 10(a) requires that the Commission forbear from the application of any provision of the Act, if it determines that:

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.⁸

The FCC has the authority under Section 10(a) to forbear from applying 272 requirements and, as SBC explains in this petition, forbearance is necessary to permit SBC to provide NDA on an integrated basis. Moreover, it is clear from several recent Commission decisions involving similar circumstances that forbearance is appropriate in this case.⁹

A. Enforcement of Section 272 is Not Necessary to Ensure that NDA Services are Just and Reasonable and Are Not Unjustly or Unreasonably Discriminatory, Nor is Such Enforcement Necessary for the Protection of Consumers.

Requiring SBC to provide NDA services (both regional and national) through a separate Section 272 affiliate is not necessary to ensure that rates and services are just and reasonable. Vigorous competition exists today among interexchange carriers and local exchange companies in

⁸ 47 U.S.C. §160 (a).

⁹ See, e.g., *In the Matters of Bell Operating Companies Petitions for Forbearance from the Application of Section 272 of the Communications Act of 1934, As Amended, to Certain Activities*, CC Docket No. 96-149, Memorandum Opinion and Order, 13 FCC Rcd 2627 (1998); *In the Matters of Nevada Bell, Pacific Bell, and Southwestern Bell Telephone Company; Petition for Forbearance of Section 272 of the Communications Act, as Amended, to Provide Reverse Directory Services*, CC Docket No. 98-193, 14 FCC Rcd 6329 (1999); and *U S West Order*, at *supra* n. 3.

the provisioning of NDA. SWBT has offered NDA for nearly seven months and Ameritech for approximately three years at prices below those of the more established competitors. AT&T, MCI, and Sprint generally charge their long distance subscribers in a range from 99 cents to as much as \$1.40 for each listing from a different area code. SBC charges 95 cents for its nonlocal directory listings. As such, there is no plausible argument that SBC's current rates are unreasonable, unjust or discriminatory. In addition, SBC has approved state tariffs for these services in each state where its NDA service is offered, meaning that the terms and pricing of those tariffs have been the subject of public disclosure and state regulatory approval.

Further, there is no likelihood that SBC will be able to charge unreasonable rates in the future. In addition to state regulatory oversight, competition for these services is fierce as evidenced by the advertising campaigns of several of SBC's competitors. Such vigorous competition effectively precludes any carrier from charging unreasonable or excessive rates. Thus, application of Section 272 to SBC's NDA service is not necessary for the protection of consumers.

Structural separation of local exchange services from NDA services is also not required to ensure that SWBT, PB, NB, and Ameritech provide these services under terms which are just and reasonable, and not unjustly or unreasonably discriminatory. On the contrary, applying Section 272 to SBC's NDA service would have the opposite effect. It would substantially increase SBC's rates for the service and/or discourage the offering of the service. Application of the Section 272 requirements would leave SBC with three undesirable options: 1) stop offering the service; 2) restructure the service to avoid the interLATA transmission which means duplicating the databases in every LATA; 3) or offering the service through a separate affiliate. SBC does not believe the FCC desires any of those results since they mean higher prices and/or driving a viable competitor from the marketplace. Further, the Commission, in its *US West Order*, found that this prong of the forbearance test was met under similar circumstances by U S West. ¶ 31.

B. Granting Forbearance of the Section 272 Requirements Identified in this Petition is Consistent With the Public Interest.

The Act provides that in deciding whether forbearance is in the public interest under the Section 10(a)(3), "the Commission shall consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services." The Commission in the *U S West Order* found that the public interest test was met for the following reasons:

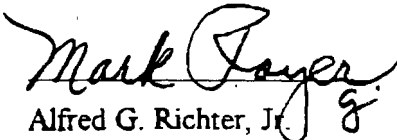
We conclude that permitting U S West to provide nonlocal directory assistance service on an integrated basis will allow U S West to be a more effective competitor in the nonlocal directory services market. Conversely, if U S West was required to provide nonlocal directory assistance through a separate affiliate, while continuing to provide local directory assistance on an integrated basis, the section 272 safeguards would pose significant adverse competitive consequences for U S West, without positive benefits for consumers. Indeed, U S West argues that the increased costs associated with complying with section 272 would force it to choose between charging higher rates for the service or not providing it at all. *Id.* at para. 49.

As with U S West's service, forbearance will benefit consumers and promote the public interest by allowing SBC to compete. If SBC could provide NDA service only through a structurally separate affiliate, the company would incur significant added expenses and inefficiencies. SBC would be required to employ separate personnel, facilities and equipment in operating its national directory service, even though those assets should logically and efficiently be shared with the local service. Granting Section 272 forbearance relief would avoid these unnecessary costs, and allow SBC to be an effective competitor in the market for NDA services. Enabling SBC to provide local exchange services on an integrated basis with NDA services in its in-region locations will result in better service and ensure competitive pricing for customers and, thus, will strongly promote the public interest.

WHEREFORE, SBC and its BOCs request forbearance from § 272 of the Act under the terms and conditions set forth herein for the provision by the SBC BOCs of any NDA service in any of their in-region locations, and for such other relief as stated herein. In addition, SBC requests the Commission to grant it the same amount of time granted to U S West (60 days after release of the order) in which to make the accounting changes specified in the *U S West Order*. ¶ 37.

Respectfully submitted,

SBC COMMUNICATIONS INC.

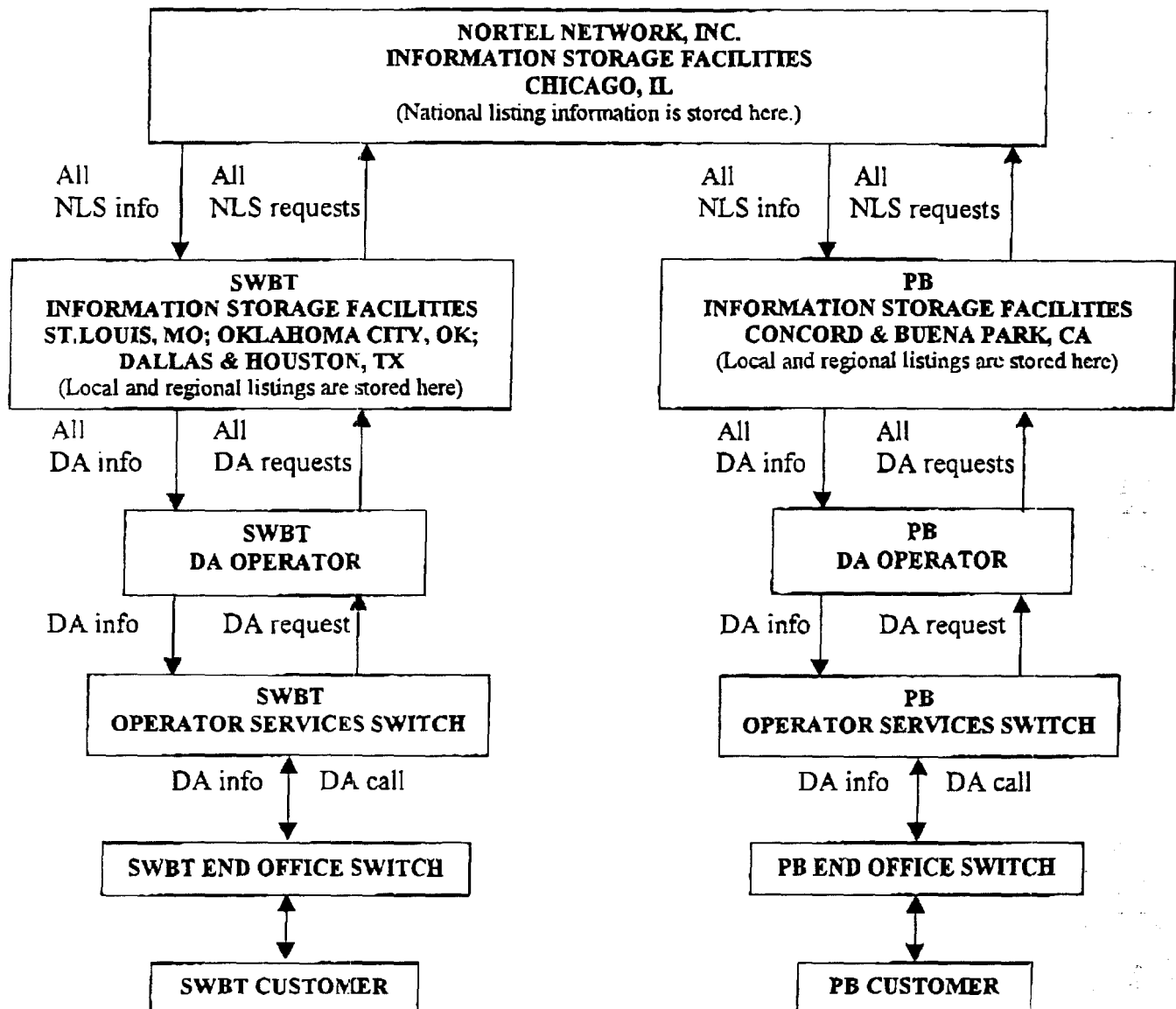
By: 
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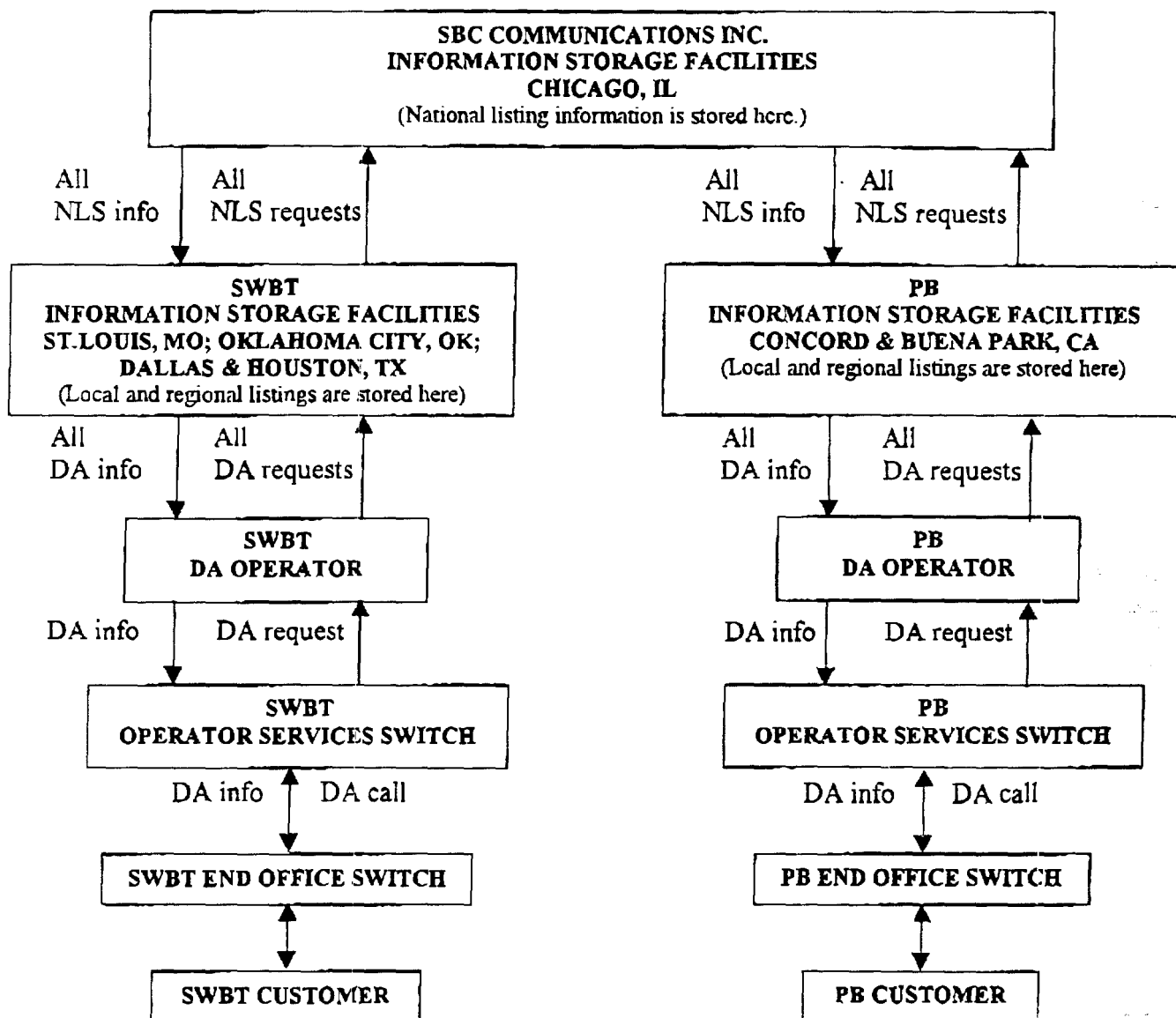
November 2, 1999

SWBT AND PB NATIONAL LISTING SERVICES (NLS) (CURRENT CONFIGURATION)



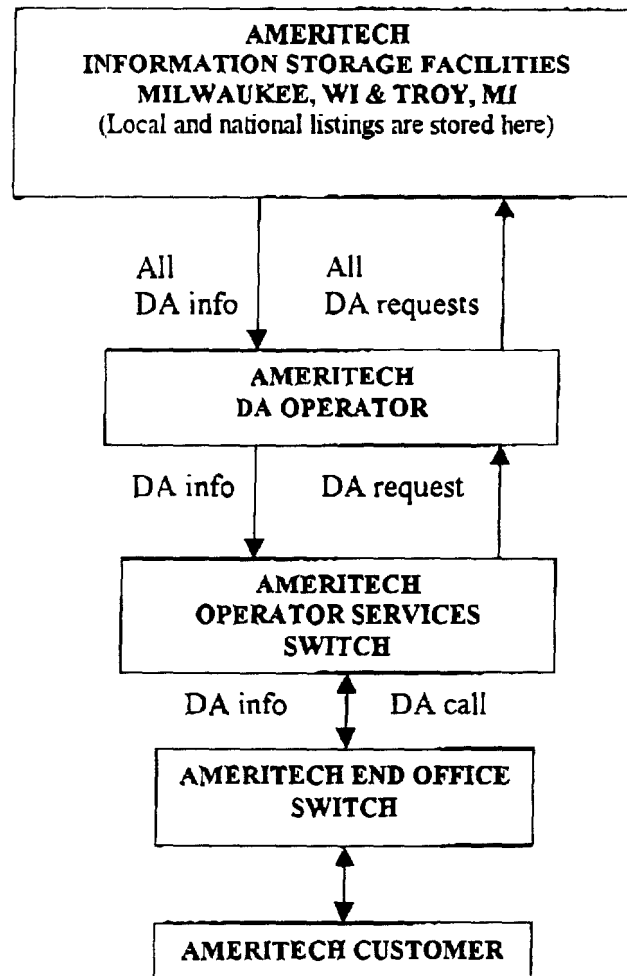
- Customer dials local access number (411 or 555-1212) and requests a national listing.
- DA Operator answers call and directs system to send a query to SWBT/PB search software/node.
- The query is routed from SWBT/PB search software/node to a Nortel national DA database in Chicago.
- The national DA database responds with national listing(s) information.
- SWBT/PB search software/node transmits national listing(s) information matching query criteria to DA Operator.
- DA Operator provides customer with the requested national listing.

SWBT AND PB NATIONAL LISTING SERVICES (NLS) (PROPOSED CONFIGURATION)



- Customer dials local access number (411 or 555-1212) and requests a national listing.
- DA Operator answers call and directs system to send a query to SWBT/PB search software/node.
- The query is routed from SWBT/PB search software/node to a SBC's national DA database in Chicago.
- The national DA database responds with national listing(s) information.
- SWBT/PB search software/node transmits national listing(s) information matching query criteria to DA Operator.
- DA Operator provides customer with the requested national listing.

**AMERITECH
NATIONAL DIRECTORY ASSISTANCE SERVICES (NDA)
(CURRENT CONFIGURATION)**



- Customer dials local access number (411 or 555-1212) and requests a national listing.
- DA Operator answers call and initiates search.
- All queries are routed to Ameritech's information storage facilities.
- The national DA database responds with national listing(s) information.
- DA Operator (or system) provides customer with the requested national listing.

CERTIFICATE OF SERVICE

I, Katie Turner, do hereby certify that copies of the "Petition of SBC Communications Inc. for Forbearance from Section 272 of the Federal Telecommunications Act of 1996" were served by first class United States Mail, postage prepaid, upon the parties appearing on the attached service list this 2nd day of November, 1999.

/s/ Katie Turner

November 2, 1999

SERVICE LIST

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